UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

NOV - 3 2009

The Honorable L. Preston Bryant, Jr.
Secretary of Natural Resources
Patrick Henry Building
1111 East Broad Street
Richmond, Virginia 23219

Dear Secretary Bryant:

The purpose of this letter is to provide the Chesapeake Bay Program's Principals' Staff Committee (PSC) with the preliminary basinwide target loads for nitrogen and phosphorus and the working target loads for nitrogen and phosphorus for the basin-jurisdictions to meet the states' Bay dissolved oxygen water quality standards in the Chesapeake Bay and its tidal tributaries. The U.S. Environmental Protection Agency (EPA) expects these loads to continue to be refined as the science unfolds. These working targets allow each of the jurisdictions to begin development of their Watershed Implementation Plans (Plans) and to move the Chesapeake Bay Total Maximum Daily Load (Bay TMDL) development forward. Today, EPA has also issued a separate letter setting forth our expectations regarding the Plans. This letter also details the schedule necessary to meet EPA's commitment to complete the Bay TMDL by December 2010.

Nutrient Target Loads

At the October 23, 2009, PSC meeting, EPA and the PSC agreed to preliminary basinwide target loads of 200 million pounds per year of nitrogen and 15 million pounds per year of phosphorus as recommended by the Water Quality Goal Implementation Team (WQGIT). These preliminary basinwide target loads for nitrogen and phosphorus have been shown through subsequent model runs as being adequate to achieve the states' Bay dissolved oxygen water quality standards.

It is important to note that the preliminary basinwide target loads will likely change several times leading up to a draft TMDL and final TMDL. These targets will undergo several revisions based on further technical analysis, additional deliberations among the states, the District of Columbia (District) and EPA, and at least two major opportunities for public input. The primary technical issues under consideration that will likely change these loads include: application of the upgraded Chesapeake Bay watershed model (Phase 5.2 to 5.3); inclusion of filter feeders in the Bay water quality/sediment transport model; development of sediment load targets to achieve the states' Submerged Aquatic Vegetation (SAV)/water clarity water quality standards; development of the atmospheric deposition allocations and the resultant impact on the ocean loads; trade-offs between nitrogen and phosphorus loads; and additional load reductions necessary to address Bay segments' local water quality impairments. Furthermore, EPA recognizes the need for further discussions with the watershed jurisdictions on the methodology for distributing loads.

In spite of likely future changes to the basinwide target loads, EPA considers the preliminary target loads—200 million pounds per year of nitrogen and 15 million pounds per year of phosphorus—to be appropriate for the purpose of distributing these loads to the basin-jurisdictions as working target loads to initiate the watershed implementation planning process in all six Bay watershed states and the District.

EPA and the PSC agreed, with New York abstaining, to distribute the basinwide load targets for nitrogen and phosphorus as working target loads to each of the basin-jurisdictions within the Chesapeake Bay watershed as recommended by the WQGIT at the October 23, 2009 PSC meeting. Furthermore, EPA and the PSC agreed that these working target loads are non-binding and do not represent a draft TMDL. The working target loads are shown in the enclosed Tables 1 and 2 by basin and jurisdiction, respectively. Additionally, EPA and the PSC determined that states and the District have the latitude to exchange target loads within a state from one basin to another or to exchange nitrogen and phosphorus loads within a basin to create alternate target loads as long as these load exchanges achieve the states' water quality standards in all tidal Bay segments. Adoption of these working target loads allows for the jurisdictions to move forward and engage local partners in development of their Plans.

Schedule of major milestones and completion of the Bay TMDL

EPA is committed to establishing the Bay TMDL by December 2010. In spite of best efforts, the important steps of determining the basinwide target loads and initial working basin-jurisdiction target loads have been delayed by several months. This delay has caused a commensurate delay in the states' efforts to develop the Plans. These Plans are important not only to guide state and local efforts but the load targets in the Plans will be incorporated into the draft and final Bay TMDL.

While the states and the District have less time to complete the Plans, EPA believes that the adaptive management approach that EPA has built into the planning process enables the states to make necessary adjustments in how they are to achieve the needed load reductions, after the TMDL is established. Shortening the public participation to 60 days from 90 days as well as shortening time allotted for EPA and the states to respond to public comments will allow more time for the states to develop their Plans in concert with their local partners.

With these modifications, the major milestones of the Bay TMDL development schedule are described below:

- November-December, 2009: EPA hosts 15 public meetings throughout the Bay watershed to start the public dialog on the Bay TMDL.
- June 1, 2010: States and the District submit preliminary draft Watershed Implementation Plans with target loads by source sector and Bay segment drainage to EPA.
- July 15, 2010: PSC reviews the initial draft Bay TMDL package; provides specific directions to WQGIT on requested changes.
- August 1, 2010: States and the District submit revised draft Plans to EPA.
- August 15-October 15, 2010: Bay TMDL public review and second round of public meetings.
- November 1, 2010: States and the District submit final Plans to EPA.

- November 15, 2010: PSC reviews/provides specific comments to EPA on the draft final Bay TMDL package—allocations, watershed plans, underlying documentation.
- December 21, 2010: EPA publication of final Bay TMDL.
- November 1, 2011: States and the District incorporate local target loads into their plans and submit to EPA.

EPA expects the Bay watershed states and the District to immediately move forward to engage local partners on development of the Plans and local-level/source sector target loads. EPA Region III in coordination with EPA Region II is committed to working with the Bay watershed states and the District to facilitate Plan development. EPA will provide technical analyses, water quality and watershed modeling, and contractual assistance to support the watershed implementation planning process in each of the six states and the District.

If you have any questions, please contact Mr. Jon M. Capacasa, Director, Water Protection Division, at (215) 814-5422.

Sincerely,

William C. Early
Acting Regional Administrator

Enclosures

cc: Chesapeake Bay Program Principals' Staff Committee Members
Peter Silva, Assistant Administrator, Office of Water, EPA
J. Charles Fox, Senior Advisor to the Administrator, EPA
George Pavlou, Acting Regional Administrator, EPA Region II

Table 1. Preliminary Chesapeake Bay Watershed Nitrogen and Phosphorus Working Target Loads by Basin[1]		
Basin/Jurisdiction	**Nitrogen Target Load (million pounds per year)**	**Phosphorus Target Load (million pounds per year)**
SUSQUEHANNA		
NY	10.54	0.56
PA	68.81	2.69
MD	0.83	0.05
SUSQUEHANNA Total	80.18	3.29
EASTERN SHORE		
DE	5.25	0.28
MD	12.81	1.24
VA	1.61	0.15
EASTERN SHORE Total	19.68	1.68
WESTERN SHORE		
MD	10.15	0.62
WESTERN SHORE Total	10.15	0.62
PATUXENT		
MD	3.15	0.24
PATUXENT Total	3.15	0.24
POTOMAC		
PA	4.83	0.47
MD	14.10	0.89
DC	2.37	0.13
VA	16.09	1.97
WV	5.71	0.62
POTOMAC Total	43.10	4.08
RAPPAHANNOCK		
VA	6.49	0.82
RAPPAHANNOCK Total	6.49	0.82
YORK		
VA	6.53	0.61
YORK Total	6.53	0.61
JAMES		
VA	28.49	3.50
JAMES Total	28.49	3.50
TOTAL WORKING TARGET LOAD	**197.76**	**14.84**

[1] To match with the states tributary strategy basins, the nitrogen and phosphorus loads from the Western Shore and Eastern Shore basins in Pennsylvania have been added to the Pennsylvania Susquehanna basin loads and the West Virginia James basin loads have been added to the West Virginia Potomac loads.

Table 2. Preliminary Chesapeake Bay Watershed Nitrogen and Phosphorus Working Target Loads by Jurisdiction[2]		
Jurisdiction/Basin	**Nitrogen Target Load (million pounds per year)**	**Phosphorus Target Load (million pounds per year)**
PENNSYLVANIA		
Susquehanna	68.81	2.69
Potomac	4.83	0.47
PA Total	73.64	3.16
MARYLAND		
Susquehanna	0.83	0.05
Eastern Shore	12.81	1.24
Western Shore	10.15	0.62
Patuxent	3.15	0.24
Potomac	14.10	0.89
MD Total	41.04	3.04
VIRGINIA		
Eastern Shore	1.61	0.15
Potomac	16.09	1.97
Rappahannock	6.49	0.82
York	6.53	0.61
James	28.49	3.50
VA Total	59.22	7.05
DISTRICT OF COLUMBIA		
Potomac	2.37	0.13
DC Total	2.37	0.13
NEW YORK		
Susquehanna	10.54	0.56
NY Total	10.54	0.56
DELAWARE		
Eastern Shore	5.25	0.28
DE Total	5.25	0.28
WEST VIRGINIA		
Potomac	5.71	0.62
WV Total	5.71	0.62
TOTAL WORKING TARGET LOAD	**197.76**	**14.84**

[2] To match with the states tributary strategy basins, the nitrogen and phosphorus loads from the Western Shore and Eastern Shore basins in Pennsylvania have been added to the Pennsylvania Susquehanna basin loads and the West Virginia James basin loads have been added to the West Virginia Potomac loads.